

REMARKS

Claims 1 - 20 are in the application. Claim 1 is currently amended, and claims 2 – 17 and 20 were previously presented; claims 18 and 19 remain unchanged from the original versions thereof; and claims 21 and 22 have been cancelled. Claims 1, 16, and 20 are the independent claims herein.

No new matter has been added to the application as a result of the present Response. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC 101

Claims 1 – 15 were rejected under 35 USC 101 for being directed to non-statutory subject matter. This rejection is respectfully traversed.

In reply thereto, claims 1 is currently amended to clarify that the computer-implemented method is in fact tied to the statutory subject matter of a computer. Applicant further submits that claims 16 and 20 are also directed to statutory subject matter.

Therefore, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1 – 15 under 35 USC 101.

Claim Rejections – 35 USC § 103(a)

Regarding the rejection of claims 1 – 3, 5 – 9, 11, and 20 under 35 USC 103(a) as being unpatentable over U.S. Pat. Pub. No. 2003/0135457 to Stewart under 35 USC 103(a) in the Final Office Action, Applicant notes that the Non-Final Office Action dated June 21, 2006 cited and relied upon Stewart for all of the claimed aspects except for an explicit disclosure of the claimed reputational risk relating to a professional standing in an industry of an account opening entity. The Final Office Action stated that it would have been obvious to one of ordinary skill in the art that reputation risk related to one's professional standing would be a factor in making the determination of opening an

account. As an example, the Examiner provides the scenario of a client known to have embezzled funds through a previous account (i.e., criminal and/or legal risk).

The cited and relied upon Stewart discloses a system and method for electronically establishing a demand deposit account. In particular, Stewart discloses a system and method wherein a customer applies for the demand account on-line and provides personal information to an institution as necessary for the institution to determine the product(s) for which the customer is approved. Stewart states an automated system acquires predictive information, interacts with established debit, credit, and other databases, and either approves or denies the customer's application for a demand deposit account. (See Stewart, paragraph [0007], ln. 6 – 13) Stewart specifically discloses the use of debit and credit databases. No mention or suggestion is made in Stewart regarding Applicant's claimed risk quotient criteria associated with reputational risk of opening a client account, wherein the reputational risk relates to a professional standing in an industry of an account opening entity.

The Stewart system includes "an authorization system 60 [that] is used to validate consumer identity and to assess customer risk, unique financial product usage, demographic knowledge at a household-level-assessment, and cross-sell qualification. ... The authorization system 60 uses a logistic-regression model to predict the likelihood of financial (and particularly debit) account-related abuse. The authorization system 60 uses customer data such as the customer's social security number, driver's license number, and address to calculate the risk that an account will be closed for abuse at a later date." (emphasis added) (See Stewart, paragraph [0020], ln. 1 –14) Stewart also discloses a fraud identification system (70) that predicts the likelihood of identity manipulation and predictive fraud modeling, and helps to identify inconsistent, inaccurate, and fraudulent information provided by the customer. (See Stewart, para. 0042)

Stewart discloses a demand account approval process that explicitly considers a credit or financial risk and a fraudulent identity risk. Specifically, the credit risk relates to a credit rating of the customer and the fraudulent identity risk relates to "inconsistent,

inaccurate, and fraudulent information provided by the customer". (See Stewart, paragraphs [0020], In. 19 – 21, and [0040], In. 9 – 12) Stewart also discloses searching lists published by the United States Treasury Department Office of Foreign Assets Control (OFAC) to maintain OFAC compliance.

It is thus clear that the factors explicitly disclosed and considered in Stewart specifically and directly relate to the customer's credit and financial standing, as well as the customer's identity and strict compliance with OFAC regulations.

Applicant respectfully agrees with the Examiner's admittance that Stewart does not disclose "wherein said reputation relates to a professional standing in an industry of an account opening entity." However, Applicant disagrees with the Examiner's broadly stated conclusion that it would have been obvious to one skilled in the art that reputation risk related to one's professional standing would be a factor in making the determination of opening an account. (See Final Office Action dated July 21, 2006, page 3, In. 16 – page 4, In. 1)

Applicant respectfully submits that the reasons provided in the Advisory Action dated August 31, 2006 for not allowing the application are also factually incorrect. For example, the Examiner states, "[S]tewart discloses the use of reputation in considering account opening. The consideration of credit score and credit rating are part of reputational risk."

Applicant disagrees with the Examiner's definition of reputational risk on the basis that it is not supported by the cited and relied upon Stewart or any other substantiated evidence. Additionally, the Examiner's alleged definition of the claimed reputational risk is contrary to Applicant's clearly claimed and disclosed meaning of the term "reputational risk". As a matter of fact, Applicant states reputational risk relates to harm that a financial institution may suffer regarding its professional standing in an industry (Specification, page 2, In. 9 – 10) and claims reputational risk relates to a professional standing in an industry of an account opening entity. Applicant also discloses, "[C]redit risk relates to factors that can adversely affect a party's ability to

borrow money." (See Specification, page 2, ln. 3 – 4) The data and analysis to identify credit risk is not the same as the data and analysis needed to identify the claimed reputational risk. The credit score and credit rating factors disclosed by Stewart clearly relate to a credit risk.

Thus, it is clear, as a matter of fact, that Stewart fails to disclose the claimed reputational risk and the motivation or basis of the Examiner's conclusion that Stewart suggests the claimed reputational risk is erroneous.

Accordingly, Applicant submits that claims 1 – 3, 5 – 9, 11, and 20 are patentable over Stewart under 35 USC 103(a).

Claims 4, 10, and 16 – 19 are Patentable over Stewart, and in further view of Greene under 35 USC. 103(a)

Claims 4, 10, 14, and 16 - 19 were rejected as being unpatentable over Stewart, and further in view of U.S. Patent Number US 2002/0143686 A1 to Greene et al. (hereinafter, Greene).

Applicant further submits that Greene fails to address or overcome the failings of Stewart. As clearly shown above regarding claims 1 and 20, Stewart fails to disclose or suggest the claimed reputational risk. Accordingly, even combining Stewart with Greene (as alleged in the Office Action but not agreed with as suggested or feasible by Applicant) would not render claim 16 obvious.

Applicant respectfully submits that claims 4, 10, 14, and 17 – 19 depend from allowable base claims and are therefore also allowable. Accordingly, Applicant submits that claims 4, 10, 14, and 16 - 19 are patentable over Stewart and Greene under 35 USC 103(a).

Claims 12 - 13 and 15 are Patentable over Stewart as applied to claim 1, and further in view of xreferplus under 35 USC. 103(a)

Claims 12 - 13 and 15 were rejected as being unpatentable over Stewart as applied to claim 1, and further in view of xreferplus.

Applicant respectfully submits that claims 12 - 13 and 15 depend from an allowable base claim, namely claim 1. For at least this reason, Applicant submits that claims 12 - 13 and 15 are also allowable.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1 – 20.

Claims 1 - 3, 5 - 9, 11, and 20 were rejected as being unpatentable over U.S. Patent Number US 2003/0135457 A1 to Stewart et al. (hereinafter, Stewart). This rejection is respectfully traversed.

In contrast to claims 1 and 20, Stewart discloses a particular system and method for electronically establishing a demand deposit account. In particular, Stewart discloses system and method wherein a customer applies for the demand account on-line and provides personal information to an institution as necessary for the institution to determine the product(s) for which the customer is approved.

An authorization system 60 is used to validate consumer identity and to assess customer risk, unique financial product usage, demographic knowledge at a household-level-assessment, and cross-sell qualification. ... The authorization system 60 uses a logistic-regression model to predict the likelihood of financial (and particularly debit) account-related abuse. The authorization system 60 uses customer data such as the customer's social security number, driver's license number, and address to calculate the risk that an account will be closed for abuse at a later date, (emphasis added) (See Stewart, para. [0020], ln. 1 –14) Stewart also discloses a fraud identification system (70) that predicts the likelihood of identity manipulation and predictive fraud modeling,

and helps to identify inconsistent, inaccurate, and fraudulent information provided by the customer. (See Stewart, para. 0042)

Thus, it is clear that Stewart discloses a demand account approval process that explicitly considers a credit or financial risk and a fraudulent identity risk. Specifically, the credit risk relates to a credit rating of the customer and the fraudulent identity risk relates to "inconsistent, inaccurate, and fraudulent information provided by the customer". That is, the risks explicitly disclosed and considered in Stewart specifically relate to the customer applying to open an account.

While the Examiner admits that Stewart does not specifically disclose the claimed wherein the reputation relates to a professional standing in an industry of an account opening entity, the Examiner broadly concludes it would have been obvious to one skilled in the art that reputation risk related to one's professional standing would be a factor in making the determination of opening an account.

Applicant respectfully submits that in rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Evidence of a suggestion, teaching, or motivation to modify a reference may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), although "the suggestion more often comes from the teachings of the pertinent references," In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). A broad conclusory statement regarding the obviousness of modifying a reference, standing alone, is not evidence. Thus, when an Examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record. See In re Lee, 277 F.3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

In reference to the Final Office Action, the Examiner provides no evidence articulated in the cited and relied upon Stewart of modifying the reference to include the claimed "reputational risk". None of the hypothetical scenarios provided on page 4 of the Office Action are supported by Stewart. The Examiner has not provided any evidence that Stewart suggests a modification thereof to include or even contemplate reputational risk. Furthermore, Applicant sees no such support in a review of Stewart.

Applicant respectfully submits that the supposed reasoning offered by the Examiner in rejecting claim 1 appears to be nothing more than impermissible hindsight reasoning wherein Applicant's own disclosure is improperly used as a basis to reject the claim. This is Applicant's belief based on the total lack of support regarding "reputational risk" by Stewart and the line of reasoning used in the rejection that is not supported at all by the cited and relied upon Stewart.

Therefore, Applicant respectfully submits that neither the credit/ financial risk nor the fraudulent identity risk disclosed in Stewart are the same as or the equivalent of the reputational risk recited in the pending claims. The credit or financial risk does not relate to a professional standing in an industry of an account opening entity. Additionally, the fraudulent identity risk is not related to a professional standing in an industry of the account opening entity of Stewart.

Therefore, it is clear that Stewart fails to fully disclose that for which it was cited and relied upon for disclosing and/or suggesting. Again, Stewart fails to disclose or suggest the claimed reputational risk of opening the client account, wherein said reputational risk relates to a professional standing in an industry of an account opening entity.

Accordingly, Applicant submits that claims 1 – 3, 5 – 9, 11 and 20 are patentable over Stewart under 35 USC 103(a). Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection under 35 USC 103(a) and the allowance of claims 1 – 3, 5 – 9, 11 and 20.

Claims 4, 10, 14, and 16 - 19 were rejected as being unpatentable over Stewart, and further in view of U.S. Patent Number US 2002/0143686 A1 to Greene et al. (hereinafter, Greene). This rejection is respectfully traversed.

As clearly shown above regarding claims 1 and 20, Stewart fails to disclose or suggest the claimed reputational risk. In fact, claim 16 is worded the same as claim 20 regarding the reputational risk. As such, even combining Stewart with Greene (as alleged in the Office Action but not agreed with as suggested or feasible by Applicant) would not render claim 16 obvious.

Applicant respectfully submits that claims 4, 10, 14, and 17 - 19 depend from allowable base claims and are therefore also allowable.

Accordingly, Applicant submits that claims 4, 10, 14, and 16 - 19 are patentable over Stewart and Greene under 35 USC 103(a). Applicant therefore requests the reconsideration and withdrawal of the rejection of claims 4, 10, 14, and 16 - 19 under 35 USC 103(a) and the allowance of same.

Claims 12 - 13 and 15 were rejected as being unpatentable over Stewart as applied to claim 1 above, and further in view of Dictionary of Economics by Wiley (995) from www.xreferplus.com (hereinafter, xreferplus). This rejection is respectfully traversed

Applicant respectfully submits that claims 12 - 13 and 15 depend from an allowable base claim, namely claim 1. For at least this reason, Applicant submits that claims 12 - 13 and 15 are also allowable.

Accordingly, Applicant submits that claims 12 - 13 and 15 are patentable over Stewart and xreferplus under 35 USC 103(a). Applicant therefore requests the reconsideration and withdrawal of the rejection of claims 12 - 13 and 15 under 35 USC 103(a) and the allowance of same.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date

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